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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,188	03/17/2000	David M. Greschler	111283.131 US1	3633
23483	7590	05/05/2006	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP 60 STATE STREET BOSTON, MA 02109				JACOBS, LASHONDA T
ART UNIT		PAPER NUMBER		
				2157

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/527,188	GRESCHLER ET AL.	
	<b>Examiner</b> LaShonda T. Jacobs	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 February 2006.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 and 43-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-38 and 43-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>February 17, 2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicant's Amendment/Request for Reconsideration filed on June 3, 2005. Claims **1-38** and **43-48** are presented for further examination.

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims **1-38** and **43-48** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants' have amended claims 1, 20 and 43 "without installation of the application program on the target computer and wherein the operating system continues to execute in the first session without reboot and restart of the operating system of the target computer" The Examiner finds no support in Applicant's specification for this limitation.

Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining."). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), aff'd

mem., 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Note that a lack of literal basis in the specification for a negative limitation may not be sufficient to establish a *prima facie* case for lack of descriptive support. *Ex parte Parks*, 30 USPQ2d 1234, 1236 (Bd. Pat. App. & Inter. 1993). See MPEP § 2163 - § 2163.07(b) for a discussion of the written description requirement of 35 U.S.C. 112, first paragraph.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-8, 10-13, 17-27, 29-32, 34-38** and **43-48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pashupathy et al (hereinafter, "Pashupathy", 6,078,951) in view of Atkin et al (hereinafter, "Atkin", U.S. Pat. No. 5,900,871).

As per claim 1, Pashupathy discloses a method for serving application programs over a computer network from an application server system to a target computer having an operating system executing in a first session, the method comprising:

- the target computer signaling the application server system with a request for an application program (col. 6, lines 34-50 and lines 56-67);
- the application server system responding to the request by transferring an application descriptor to the target computer (col. 7, lines 1-4);
- the application descriptor being read by a helper application executing on the target computer, the helper application determining from the application descriptor a configuration required by the target computer to execute the requested application program (col. 6, lines 34-55 and col. 8, lines 23-28); and
- the helper application controlling the target computer to execute the application program, the application program residing on the application server system, using said configuration, whereby portions of the application program are retrieved and executed (col. 6, lines 34-55 and col. 8, lines 23-28).

However, Pashupathy does not explicitly disclose:

- without installation of the application program on the target computer and wherein the operating system continues to execute in the first session without reboot and restart of the operating system of the target computer

Atkin discloses a system and method for managing multiple cultural profiles in an information handling system including:

- without installation of the application program on the target computer and wherein the operating system continues to execute in the first session without reboot and restart of the operating system of the target computer (abstract, col. 5, lines 38-42 and col. 8, lines 40-53).

Given the teaching of Atkin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pashupathy by allowing users to modify existing cultural profiles (applications) dynamically without having to reboot the system in order to enable programs to be globalized/localized to support different countries and cultures.

As per claim 20, Pashupathy discloses an application serving system operating across a computer network, the system comprising:

- a target computer that requests an application program (col. 6, lines 34-50 and lines 56-67);
- an application server system that responds to the request by transferring an application descriptor to the target computer (col. 7, lines 1-4); and
- a helper process executing on the target computer that reads the application descriptor to determine a configuration required by the target computer to execute the application program, the helper process and controlling the target computer to execute the application program using said configuration, wherein at least a portion of the application program resides on the application server system (col. 6, lines 34-55 and col. 8, lines 23-28).

However, Pashupathy does not explicitly disclose:

- without installing the application program on the target computer .

Atkin discloses a system and method for managing multiple cultural profiles in an information handling system including:

- without installing the application program on the target computer (abstract, col. 5, lines 38-42 and col. 8, lines 40-53).

Given the teaching of Atkin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pashupathy by allowing users to modify existing cultural profiles (applications) dynamically without having to reboot the system in order to enable programs to be globalized/localized to support different countries and cultures.

As per claim 43, Pashupathy discloses a method for providing a software application program from an application server system to a target computer over a network, the method comprising:

- sending an application request signal, indicative of the software application program, from the target computer to the application server system (col. 6, lines 34-50 and lines 56-67);
- receiving an application descriptor from the application server system, the application descriptor corresponding to the software application program (col. 6, lines 34-55);
- responsive to information in the application descriptor, executing the helper application on the target computer, the helper application using the information in the application descriptor and identifying a configuration of application program elements required by the target computer to execute the software application program (col. 6, lines 34-55 and col. 8, lines 23-28).
- receiving said software application program elements from the application server system over the network (col. 6, lines 56-67 and col. 7, lines 1-4); and
- executing the software application program on the target computer using the received executable software application program elements (col. 8, lines 23-28).

However, Pashupathy does not explicitly disclose:

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- without installing the application program on the target computer and wherein the operating system is continuing to execute in the first session and wherein a reboot and restart of the operating system is not required to execute the application program.

Atkin discloses a system and method for managing multiple cultural profiles in an information handling system including:

- without installing the application program on the target computer and wherein the operating system is continuing to execute in the first session and wherein a reboot and restart of the operating system is not required to execute the application program  
(abstract, col. 5, lines 38-42 and col. 8, lines 40-53).

Given the teaching of Atkin, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pashupathy by allowing users to modify existing cultural profiles (applications) dynamically without having to reboot the system in order to enable programs to be globalized/localized to support different countries and cultures.

As per claims 2 and 21, Pashupathy further discloses:

- the target computer signaling the server system with the request for the application by user selection of a link, which is displayed by a browser associated with the application program (col. 6, lines 34-50, lines 56-67 and col. 7, lines 1-4).

As per claims 3 and 22, Pashupathy further discloses:

- the link containing an application identifier that identifies the requested application program to the application server system (col. 5, lines 14-30).

As per claims 4 and 23, Pashupathy further discloses:

- the link pointing to the browser to the application server system (col. 5, lines 14-30).

As per claims **5** and **24**, Pashupathy discloses:

- wherein activating the link triggers the downloading of the application descriptor from the application server system to the target computer (col. 5, lines 14-30, col. 6, lines 17-32 and col. 7, lines 1-4).

As per claims **6** and **25**, Pashupathy further discloses:

- the application server system encrypting the application descriptor prior to transmission to the target computer (col. 6, lines 11-22).

As per claims **7** and **26**, Pashupathy further discloses:

- invoking the helper application in response to the receipt of the application descriptor on the target computer (col. 6, lines 17-32 and col. 7, lines 1-4).

As per claims **8** and **27**, Pashupathy further discloses:

- maintaining the helper application on a graphical user interface of the target computer (col. 4, lines 50-63).

As per claims **10** and **29**, Pashupathy further discloses:

- issuing a command to a browser to display a follow-up page in response to termination of the application program on the target computer (col. 6, lines 17-32 and col. 7, lines 1-4).

As per claims **11** and **30**, Pashupathy further discloses:

- the application descriptor, minimum system requirements information, which is used by the target computer to ensure that adequate system resources are available to run the application program (col. 6, lines 34-50).

As per claims **12** and **31**, Pashupathy discloses:

- wherein the application descriptor contains transaction mode information (col. 6, lines 34-50).

As per claims **13** and **32**, Pashupathy discloses:

- wherein the application descriptor contains application server information indicating a host computer to which the target computer is attach to receive the application program (col. 6, lines 34-50, lines 56-67 and col. 7, lines 1-4).

As per claims **15** and **34**, Pashupathy discloses:

- tracking by the server system a status of the operation of the application program on the target computer (col. 6, lines 62-67).

As per claims **16** and **35**, Pashupathy discloses:

- a failure server of the application server system receiving error log information from the helper in response to improper operation of the application program on the target computer (col. 6, lines 62-67).

As per claims **17** and **36**, Pashupathy discloses:

- the application descriptor containing application server information indicating a host computer of application server system to which the target computer is attached to receive the application program, the host computer being selected to load-balance across the application server system (col. 6, lines 34-50, lines 56-67 and col. 7, lines 1-4).

As per claims **18** and **37**, Pashupathy discloses:

- the target computer mounting the server system to access the application program (col. 6, lines 34-50, lines 56-67 and col. 7, lines 1-4).

As per claims **19** and **38**, Pashupathy discloses:

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- the target computer accessing the server system via port 80 (col. 2, lines 60-67 and col. 3, lines 3-9).

As per claim 44, Pashupathy further discloses:

- selecting a link associated with the software application program (col. 6, lines 34-50, lines 56-67 and col. 7, lines 1-4).

As per claim 45, Pashupathy further discloses:

- installing or updating the helper application on the target computer (col. 4, lines 50-58).

As per claim 46, Pashupathy further discloses:

- decrypting the application descriptor if the application descriptor is received in encrypted form (col. 6, lines 17-22).

As per claim 47, Pashupathy further discloses:

- checking a firewall proxy to allow streaming of the application program elements from the application server system to the target computer (col. 5, lines 14-22 and col. 6, lines 34-50).

As per claim 48, Pashupathy discloses:

- wherein receiving the application program elements comprises receiving streaming data including the executable application program elements (col. 6, lines 34-50).

5. Claims 9, 14, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pashupathy in view of Atkin and in further view of de Hond.

As per claims 9 and 28, Pashupathy in view of Atkin discloses the invention substantially as claims discussed above.

However, Pashupathy in view of Atkin does not explicitly disclose:

- a helper application that is used to display advertisements to the target computer.

de Hond discloses a system comprising a helper application that is used to display advertisements to the target computer (col. 2, lines 45-67, col. 3, lines 1-4, lines 18-48, col. 5, lines 52-67, col. 6, lines 1-9, col. 8, lines 31-67, and col. 9, lines 1-6).

Given the teaching of de Hond, it would have been obvious to one of ordinary skill in the art to modify the combine system of Pashupathy and Atkin by specifying that helper application within the client system can display advertisements allowing the user to view advertisements being displayed the browser.

As per claims **14** and **33**, Pashupathy in view of Atkin discloses the invention substantially as claims discussed above.

However, Pashupathy in view of Atkin does not explicitly disclose:

- wherein the application descriptor contains advertisement information indicating a host computer to which the target computer is attach to receive advertisements.

de Hond discloses a system comprising:

- wherein the application descriptor contains advertisement information indicating a host computer to which the target computer is attach to receive advertisements (col. 2, lines 45-67, col. 3, lines 1-4, lines 18-48, col. 5, lines 52-67, col. 6, lines 1-9, col. 8, lines 31-67, and col. 9, lines 1-6).

Given the teaching of de Hond, it would have been obvious to one of ordinary skill in the art to modify the combine system of Pashupathy and Atkin by including advertisements in the application descriptor allowing the user to view advertisements being displayed the browser.

***Response to Arguments***

6. Applicant's arguments with respect to claims **1-38** and **43-48** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
April 24, 2006



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